

AMENDED IN SENATE MARCH 15, 1999

SENATE BILL

No. 329

Introduced by Senator Peace

February 8, 1999

An act to ~~add Section 401.7 to~~ amend Section 100 of, and to add Section 100.02 to, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 329, as amended, Peace. Property taxation: electric facilities: local assessment.

The California Constitution requires the State Board of Equalization to annually assess the property, other than franchises, of a ~~public utility in the form of a~~ company transmitting or selling gas or electricity. *Existing property tax law provides for the allocation of the assessed value of this property among the counties, the application to those assessed values of tax rates determined in accordance with certain formulas, and the allocation within each county of the revenues derived from the application of those rates in a manner separate and distinct from the manner in which county-collected property tax revenues are required to be allocated.*

This bill would ~~require~~, for the 1999–2000 fiscal year and each fiscal year thereafter, ~~that county assessors assess electrical generation facilities, including power plants, cogeneration facilities, and new generation facilities, that are purchased or constructed after January 1, 1997, by an entity other than a regulated public utility company apply the~~

annual allocation requirements applicable to county-collected property tax revenues to those incremental property tax revenues, as defined, derived from the application of a tax rate determined under current law to those electrical general facilities purchased or constructed by a company that sells electricity. By imposing new ~~assessment~~ duties upon local ~~assessors~~ officials in the allocation of tax revenues, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 401.7 is added to the Revenue~~
2 ~~and Taxation Code, to read:~~

3 ~~401.7. For the 1999-2000 fiscal year and each fiscal~~
4 ~~year thereafter, electrical generation facilities, including~~
5 ~~power plants, cogeneration facilities, and new generation~~
6 ~~facilities, purchased or constructed after January 1, 1997,~~
7 ~~by an entity other than a regulated public utility~~
8 ~~company, shall be assessed by county assessors.~~

9 ~~SEC. 2.—~~

10 *SECTION 1. Section 100 of the Revenue and Taxation*
11 *Code is amended to read:*

12 100. Notwithstanding any other provision of law,
13 commencing with the 1988-89 fiscal year, property tax
14 assessed value attributable to unitary and operating
15 nonunitary property, as defined in Sections 723 and 723.1,
16 that is assessed by the State Board of Equalization shall be
17 allocated by county as provided in Section 756, and the
18 assessed value and revenues attributable to that
19 allocation shall be allocated within each county as follows:

(a) Each county shall establish one countywide tax rate area. The assessed value of all unitary and operating nonunitary property shall be assigned to this tax rate area. No other property shall be assigned to this tax rate area.

(b) Property assigned to the tax rate area created by subdivision (a) shall be taxed at a rate equal to the sum of the following two rates:

(1) A rate determined by dividing the county's total ad valorem tax levies for the secured roll, including levies made pursuant to Section 96.8, for the prior year, exclusive of levies for debt service, by the county's total ad valorem secured roll assessed value for the prior year.

(2) A rate determined as follows:

(A) By dividing the county's total ad valorem tax levies for unitary and operating nonunitary property for the prior year debt service only by the county's total unitary and operating nonunitary assessed value for the prior year.

(B) Beginning with the 1989–90 fiscal year, adjusting the rate determined pursuant to subparagraph (A) by the percentage change between the two preceding fiscal years in the county's ad valorem debt service levy for the secured roll, not including unitary and operating nonunitary debt service.

(c) ~~The~~ *Except as provided in Section 100.02 with respect to revenues derived from the taxation of qualified electric generation facilities as defined in that section, the* property tax revenue derived from the assessed value assigned to the countywide tax rate area pursuant to subdivision (a) by the use of the tax rate determined in paragraph (1) of subdivision (b) shall be allocated as follows:

(1) For the 1988–89 fiscal year and each fiscal year thereafter, each taxing jurisdiction shall be allocated an amount of property tax revenue equal to 102 percent of the amount of the aggregate property tax revenue it received from all unitary and operating nonunitary property in the prior fiscal year, exclusive of revenue attributable to levies for debt service.

1 (2) If the amount of property tax revenue available for
2 allocation in the current fiscal year is insufficient to make
3 the allocations required by paragraph (1), the amount of
4 revenue to be allocated to each taxing jurisdiction shall be
5 prorated based on a factor determined by dividing the
6 total amount of property tax revenue available to all
7 taxing jurisdictions from unitary and operating
8 nonunitary property in the current year, exclusive of
9 revenue attributable to levies for debt service, by the
10 total amount of property tax revenue received by all
11 taxing jurisdictions from unitary and operating
12 nonunitary property in the prior fiscal year, exclusive of
13 revenue attributable to levies for debt service.

14 (3) If the amount of property tax revenue available for
15 allocation to all taxing jurisdictions in the current fiscal
16 year from unitary and operating nonunitary property,
17 exclusive of revenue attributable to levies for debt
18 service, exceeds 102 percent of the property tax revenue
19 received by all taxing jurisdictions from all unitary and
20 operating nonunitary property in the prior fiscal year,
21 exclusive of revenue attributable to levies for debt
22 service, the amount of revenue in excess of 102 percent
23 shall be allocated to all taxing jurisdictions in the county
24 by a ratio determined by dividing each taxing
25 jurisdiction's share of the county's total ad valorem tax
26 levies for the secured roll for the prior year, exclusive of
27 levies for debt service, by the county's total ad valorem
28 tax levies for the secured roll for the prior year, exclusive
29 of levies for debt service.

30 (d) The property tax revenue derived from the
31 assessed value assigned to the countywide tax rate area
32 pursuant to subdivision (a) by the use of the tax rate
33 determined in paragraph (2) of subdivision (b) shall be
34 allocated as follows:

35 (1) An amount shall be computed for each taxing
36 jurisdiction and shall be determined by multiplying the
37 amounts required in the current year pursuant to
38 subdivisions (a) and (c) of Section 93 by that percentage
39 that shall be determined by dividing the amount of
40 property tax revenue the jurisdiction received in the

1 prior year from unitary property and operating
2 nonunitary property by the total amount of property tax
3 revenue the jurisdiction received in the prior year from
4 all property.

5 (2) The amount of property tax revenue available for
6 allocation pursuant to this subdivision shall be allocated
7 among taxing jurisdictions in the proportion that the
8 amount computed for each taxing jurisdiction pursuant to
9 paragraph (1) bears to the total amount computed
10 pursuant to paragraph (1) for all taxing jurisdictions.

11 (3) If a taxing jurisdiction is levying a tax rate for debt
12 service for the first time in the current fiscal year, for
13 purposes of determining the percentage specified in
14 paragraph (1), that percentage shall be the percentage
15 determined by dividing the amount of property tax
16 revenue received by that taxing jurisdiction in the prior
17 year pursuant to subdivision (c) from unitary and
18 operating nonunitary property by the total amount of
19 property tax revenue received by that taxing jurisdiction
20 in the prior year from all property within the taxing
21 jurisdiction.

22 (e) For purposes of this section:

23 (1) “The county’s total ad valorem tax levies for the
24 secured roll” means all ad valorem tax levies for the
25 county’s secured roll, including the general tax levy,
26 levies for debt service (including land only and land and
27 improvement rates), and levies for redevelopment
28 agencies.

29 (2) “The county’s total ad valorem secured roll”
30 means the county’s local roll, after all exemptions except
31 the homeowner’s exemption, and the county’s utility roll.

32 (3) “Taxing jurisdiction” includes a redevelopment
33 agency.

34 (4) In a county of the second class, for the 1992–93 fiscal
35 year and each fiscal year thereafter, “taxing jurisdiction”
36 includes that fund that has been designated by the
37 auditor as the “Unallocated Residual Public Utility Tax
38 Fund.” All revenues allocated to that fund pursuant to
39 this section shall be deposited in that fund and shall be
40 distributed as follows:

1 (A) For the 1992–93 fiscal year to the 1996–97 fiscal
2 year, inclusive, at the discretion of the county board of
3 supervisors.

4 (B) For the 1997–98 fiscal year, 100 percent to the
5 Orange County Fire Authority.

6 (C) For the 1998–99 fiscal year and each fiscal year
7 thereafter, in accordance with the following schedule:

8 (i) Fifty-seven and forty-seven hundredths percent to
9 the Orange County Fire Authority.

10 (ii) Forty-one and forty-seven hundredths percent to
11 the Orange County Library District.

12 (iii) Forty-eight hundredths percent to the Buena
13 Park Library District.

14 (iv) Fifty-eight hundredths percent to the Placentia
15 Library District.

16 (f) The assessed value of the unitary and operating
17 nonunitary property shall be kept separate for each state
18 assessee throughout the allocation process.

19 (g) Each state assessee shall be issued only one tax bill
20 for all unitary and operating nonunitary property within
21 the county.

22 (h) This section does not apply to unitary property of
23 regulated railway companies.

24 (i) This section does not apply to property that on July
25 1, 1987, was undeveloped and owned by a utility and
26 located within a city, county, or city and county that
27 adopts a resolution stating that the property is subject to
28 a development plan or agreement and that this section
29 shall not apply to that property, and the city, county, or
30 city and county transmits a copy of that resolution,
31 including a legal description of the property, to the State
32 Board of Equalization and the county's auditor-controller
33 prior to January 1, 1988.

34 (j) (1) For property that on July 1, 1990, was
35 undeveloped and owned by a utility and that is located
36 within a city, county, or city and county that adopts a
37 resolution stating that the property is subject to a
38 development plan or agreement and that this subdivision
39 applies to that property, and the city, county, or city and
40 county transmits a copy of that resolution, including a

1 legal description of the property, to the county auditor
2 prior to August 1, 1991, the allocation of property tax
3 revenues derived with respect to that property pursuant
4 to Sections 96.1, 96.2, 97.31, 98, 98.01, and 98.04, shall be
5 subject to the allocation required by paragraph (2).

6 (2) The county auditor shall annually allocate to a city,
7 county, or city and county, that has adopted and
8 transmitted a resolution pursuant to paragraph (1), the
9 amount of property tax revenues derived with respect to
10 the property described in paragraph (1) that would be
11 allocated to that city, county, or city and county if that
12 property were subject to assessment by the county
13 assessor. In order to provide the allocations required by
14 this paragraph, the county auditor shall make any
15 necessary pro rata reductions in allocations to local
16 agencies other than that city, county, or city and county
17 adopting and transmitting a resolution pursuant to
18 paragraph (1), of property tax revenues derived with
19 respect to the property described in paragraph (1).

20 (k) (1) For property subject to this section that is
21 owned by a utility that serves no more than two counties
22 and is located within a city, county, or city and county that
23 adopts a resolution stating that the property is subject to
24 a development plan or agreement for new construction
25 and the city, county, or city and county transmits a copy
26 of that resolution, including a legal description of the
27 property, to the State Board of Equalization and the
28 county auditor prior to January 1, 1995, the allocation of
29 property tax revenues derived with respect to that
30 property pursuant to Sections 96.1, 97.31, 98, 98.01, and
31 98.04, shall be subject to the requirements of paragraph
32 (2) until December 31, 2004.

33 (2) If the city, county, or city and county has adopted
34 and transmitted a resolution pursuant to paragraph (1),
35 the county auditor shall annually allocate the property tax
36 revenue attributable to the new construction described
37 in the development plan or agreement, as if that new
38 construction were subject to assessment by the county
39 assessor, according to the following formula:

(A) An amount of property tax revenue to school entities, as defined in subdivision (f) of Section 95, equivalent to the same percentage the school entities received in the prior fiscal year of the property tax revenues paid by the utility in the county in which the property described in paragraph (1) is located.

(B) An amount of property tax revenue to the county in which the property is located equivalent to the same percentage the county received in the prior fiscal year of the property tax revenues paid by the utility in the county in which the property described in paragraph (1) is located. The county shall distribute those property tax revenues to the county general fund, the county library district, the county flood control district, the county sanitation districts, and the county service areas.

(C) The property tax revenue remaining after the allocations described in subparagraphs (A) and (B) are made shall be distributed to the city in which the property described in paragraph (1) is located.

(3) In order to provide the allocations required by paragraph (2), the county auditor shall make any necessary pro rata reductions in allocations of property taxes attributable to the property specified in paragraph (1) to jurisdictions other than those receiving an allocation under paragraph (2).

(4) The allocation required by this subdivision shall not apply to property tax revenues allocated on or after December 31, 2004.

SEC. 2. Section 100.02 is added to the Revenue and Taxation Code, to read:

100.02. (a) Notwithstanding any other provision of this article, for the 1999–2000 fiscal year and each fiscal year thereafter, those incremental revenues derived in a county from the application of the tax rate specified in paragraph (1) of subdivision (b) of Section 100 to the assessed value of qualified electrical generation facilities shall be allocated among jurisdictions in the county in the manner specified by this chapter for ad valorem property tax revenues derived from county assessments.

1 ***(b) For purposes of this section, the following***
2 ***definitions apply:***

3 ***(1) “Designated electrical generation facility” means***
4 ***an electrical generation facility that has been purchased***
5 ***or constructed by a company that sells electricity.***

6 ***(2) “Incremental revenues” means both of the***
7 ***following:***

8 ***(A) In the case of a qualified electrical generation***
9 ***facility that obtained that status by purchase, the excess***
10 ***of the ad valorem property tax revenues derived from the***
11 ***application of the tax rate specified in paragraph (1) of***
12 ***subdivision (b) of Section 100 to the assessed value of that***
13 ***facility over the corresponding amount of ad valorem***
14 ***property tax revenue so derived with respect to that***
15 ***facility for the last full assessment year prior to the***
16 ***obtaining purchase.***

17 ***(B) In the case of any qualified electrical generation***
18 ***facility not described in subparagraph (A), the total***
19 ***amount of ad valorem property tax revenues derived***
20 ***from the application of the tax rate specified in paragraph***
21 ***(1) of subdivision (b) of Section 100 to the assessed value***
22 ***of that facility.***

23 ***SEC. 3. No reimbursement is required by this act***
24 ***pursuant to Section 6 of Article XIII B of the California***
25 ***Constitution because this act provides for offsetting***
26 ***savings to local agencies or school districts that result in***
27 ***no net costs to the local agencies or school districts, within***
28 ***the meaning of Section 17556 of the Government Code.***